

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of BRIDGETTE CATHRYN
MURPHY, KYLE THOMAS MURPHY, and
ANDREW CHRISTOPHER MURPHY, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROBERT CHARLES MURPHY,

Respondent-Appellant,

and

JACQUELINE MURPHY,

Respondent.

In the Matter of KATIE LYNN MARIE DEGG,
JASON ANDREW DEGG, OLIVIA FAITH
DEGG, STEVEN PATRICK DEGG, BRIDGETTE
CATHRYN MURPHY, KYLE THOMAS
MURPHY, and ANDREW CHRISTOPHER
MURPHY, Minors.

DEPARTMENT OF HUMAN SERVICES, f/k/a
FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

JACQUELINE MURPHY,

UNPUBLISHED
July 25, 2006

No. 267242
Oakland Circuit Court
Family Division
LC No. 04-695138-NA

No. 267243
Oakland Circuit Court
Family Division
LC No. 04-695138-NA

Respondent-Appellant,
and

ROBERT CHARLES MURPHY,

Respondent.

Before: Neff, P.J., and Bandstra and Zahra, JJ.

PER CURIAM.

In these consolidated appeals, respondents appeal as of right the trial court's order terminating their parental rights to the minor children under MCL 712A.19b(c)(i) and (g). We affirm.

The trial court did not clearly err by finding at least one statutory ground for termination of the parental rights of each respondent was established by clear and convincing evidence. MCR 3.977(J); *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). The primary conditions of adjudication relating to both respondents were inadequate housing, inadequate supervision of the children, educational neglect, and drug use. The trial court did not clearly err in finding that the conditions of adjudication continued to exist. Indeed, both respondents continued to lack adequate housing during the pendency of the proceedings. They lived in an apartment shared with another couple, in an efficiency apartment, and in a shelter. Between the termination hearing and the best interests hearing, respondents lived in the home of friends and then in a house in which they rented two bedrooms in a month-to-month lease. At the time of the termination trial, respondent father had not taken parenting classes and had been sporadic in visiting the children, evidence from which one may reasonably infer his continuing lack of ability to adequately supervise and care for them. Similarly, respondent mother's failure to complete parenting classes, consistently visit the children, or comply with any aspect of her parent agency agreement demonstrates her continued inability to properly care for and supervise the children. Respondent mother failed to address her drug abuse problem, completing no drug screens until April 2005, and then submitting three, one of which was positive for cocaine. Although she was referred for drug treatment in September 2004, she did not complete it.¹ The trial court did not err in finding no reasonable likelihood that these conditions would be rectified within a reasonable time considering the ages of the children. The ability of respondents to care for the children in the future has not been even minimally demonstrated, where they have only

¹ The continuing existence of respondent father's drug problem was not established, however. Respondent father testified that he provided all requested drug screens. The only evidence

establish a continuing drug problem on the part of respondent father.

recently obtained minimum wage jobs, continue to lack adequate housing, and have never visited the children on a consistent basis.

Both respondents argue on appeal that they were not provided reasonable services directed toward reunification, a contention that is relevant to the sufficiency of the evidence for termination of parental rights. See *In re Newman*, 189 Mich App 61, 66-69; 472 NW2d 38 (1991). Respondent mother's claim that the agency failed to provide reasonable services to address the barriers to reunification is not supported by the record. Respondent mother was referred to substance abuse treatment by Oakland Family Services in September 2004, which she failed to complete. She was referred to Concentra for drug screens and completed none of 25 screens that were required. She was referred to Covenant House for housing assistance, but failed to obtain suitable housing throughout these proceedings. She was offered visitation with the children, which she did not regularly attend. Although the record of the agency's efforts to assist respondent father is scant, we note that he failed to avail himself of every service that the record indicates was offered (housing assistance, bus tickets, parenting time). Also, because respondent father was undergoing treatment for his mental illness at the time of the initial dispositional hearing, the agency's alleged failure to provide assistance in this area does not appear determinative to the outcome of events in the case. It was respondent father who discontinued treatment in November 2004, and after resuming treatment at some later date, allowed his medication to run out and failed to appear for a medication review in August 2005. Respondent father's primary barrier appears to be one of capacity, reflected in his own testimony that he did not know if he had a plan for the children, as well as in the observation of the psychologist who evaluated him that respondent father "is likely to be dependent on others for guidance and instruction provided to him on a routine basis." We conclude that any deficiencies in the agency's efforts do not warrant a conclusion that the evidence was insufficient for termination of respondent father's parental rights.

Termination of respondents' parental rights under MCL 712A.19b(3)(g) was also appropriate. Respondents failed to provide proper care and custody for the children by failing to ensure school attendance, properly supervise them, and provide adequate housing. The same evidence demonstrating that there is no reasonable likelihood that the conditions of adjudication will be rectified within a reasonable time equally demonstrates that there is no reasonable likelihood that respondents will be able to provide proper care and custody for the children within a reasonable time. Respondent mother's failure to comply with any aspect of the parent agency agreement before the termination petition was filed, and the failure of both respondents to comply with the critical requirement for adequate housing, evidences their inability to provide proper care for the children. *In re JK*, 468 Mich 202, 214; 661 NW2d 216 (2003).

Finally, the trial court did not clearly err by finding that termination of respondents' parental rights was not clearly contrary to the best interests of the children. MCL 712A.19b(5). Respondent mother acknowledged in a September 2005 psychological evaluation that she is currently unable to make an appropriate plan of care for the children and that her current scenario is unstable. Given that respondent mother continues to lack the ability to meet the needs of the children, and considering the recommendations of both the guardian ad litem, who vigorously advocated for the children throughout the proceedings, as well as the psychologist who evaluated respondent mother, there is no basis to conclude that the trial court clearly erred in finding that termination of respondent mother's parental rights was not clearly contrary to the best interests

of the children. Similarly, given respondent father's inability to adequately provide for the basic needs of the children, we are left with no impression that the trial court made a mistake by finding that termination of his parental rights was not clearly contrary to the best interests of Bridgette, Kyle and Andrew.

We affirm.

/s/ Janet T. Neff

/s/ Richard A. Bandstra

/s/ Brian K. Zahra